

## RECORD OF PROCEEDINGS

### MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF

### GVR METROPOLITAN DISTRICT

Held: Wednesday, December 10, 2008 at 6:30 p.m., at the GVR Metropolitan District Office, 18650 East 45<sup>th</sup> Avenue, Denver, Colorado

Attendance A regular meeting of the Board of Directors of GVR Metropolitan District, Denver, Colorado, was called to order at 6:33 p.m. and held as shown above and in accordance with the applicable statutes of the State of Colorado with the following directors present and acting:

Earleen Brown, President  
Michael George, Vice President  
Anthony Noble, Treasurer  
Mary Schumer, Secretary  
Elana Perry, Director  
Joanne True, Director  
Charles Britton, Director

Also present were: Andrew Pimental, District Manager; Evan D. Ela, Legal Counsel; Les Alexander; Eric Gravenson; Elaine Smith; Lee Freedman; TJ Stone; Randy Mace; Peggy Mace; Walt Cross; Richard Brown; Olivia Chambers; Charlie Foster, James Tanner and Fenna Tanner.

1. Approve  
Agenda **The Board reviewed the published Agenda and discussed minor revisions to correct typographic errors. With revisions to correct such typographic errors, the Board approved the Agenda by consensus.**
2. Conflicts of  
Interest  
Disclosures No public disclosures were made.
3. Approve  
Minutes from  
Prior Meeting **a. November 19, 2008 Regular Board Meeting**  
The Board reviewed and discussed minor revisions necessary to the draft minutes provided at the meeting. **Upon motion by Director George, seconded by Director Schumer, the Board unanimously approved the minutes as discussed.**
4. Comment  
Period **a. Developer Representative(s)**  
No comments made.

**b. Master Homeowners Association**

Mr. TJ Stone, President of the Master HOA, noted that Draft #3, the HOA's third revision to its proposed budget, had been given to the District Board several days prior to the meeting. He reported that the Master HOA had submitted a letter survey to residents within the District boundaries seeking responses on the District's budgeting for Master HOA's expenses. He stated that 3,000 letters were sent out, 26 responded in favor of funding HOA costs by a tax only and 0 were received in favor of funding HOA costs by homeowner assessments. Mr. Stone then read several responses. The Board discussed the survey results with Mr. Stone and Mr. Stone's interpretation of the meaning of the language in Ballot 5A.

Ms. Joanne True, Treasurer of the Master HOA and District Board member, commented that the holiday lights tour would occur on the following Saturday, as in previous years.

**c. Public**

An unidentified member of the public commented that they had not responded to the survey letter provided by the HOA because they considered its tone threatening. Ms. Olivia Chambers asked the District Board to explain the outcome of a meeting held several days earlier between attorneys representing the Master HOA and the District. Mr. Lee Freedman, attorney for the Master HOA, provided his description of the result of that meeting. Mr. Ela, legal counsel to the District, also provided his description of the meeting. Both attorneys stated that the meeting had not produced a resolution of the budget dispute between the two organizations.

In response to Ms. Chambers' concerns, Director Noble summarized the open budget development process that the District had followed concerning the budget requests of the HOA and District staff members, and the committee and Board deliberations that considered such requests. He also explained that it was a goal of the budget preparation committee to keep the tax rate the same in 2009 as it had been in 2008, and that budget cuts had accordingly been made to existing programs as well as proposals of the HOA in order to comply with that goal. Chairman Brown offered her explanation of the budget formulation process and the numerous informal committee meetings and Board work sessions held to discuss in detail each of the line items in the budget and determine how much funding would be provided. Director Noble stated that the proposed District budget would fund approximately \$56,000 of new programs proposed by the Master HOA, but acknowledged that the Master HOA sought funding in the amount of approximately \$175,000 for all new programs. Director Schumer commented that she believed that increases to District or HOA budgets in 2009 would not be sensible given the recessionary economic conditions. Director Noble explained that the proposed District budget did contain a fairly large contingency balance that, if not needed for unforeseen increased

costs in District or HOA programs, could potentially be applied to additional funding requests from the HOA as the year progresses. Ms. Chambers conducted several questions of the District Directors and Mr. Stone, representing the HOA, concerning performance of the District under the Services between the two organizations.

5. Legal Report

a. **Suspension of Community Center Contracts**

Legal counsel explained a counteroffer presented by Vastco concerning settlement of its outstanding claim for approximately \$5,000 in unpaid fees for construction management services. Counsel suggested the Board discuss the counteroffer and determine its response in executive session later in the meeting.

b. **Master HOA Claim of Material Breach and Notice of Termination of Covenant Enforcement Agreement**

Legal counsel informed the Board that, despite the HOA's notice of potential termination, as of this meeting no termination of the Services Agreement had occurred.

6. Director Items

No Directors provided specific comments.

7. Board Reports  
Agenda

a. **Financials**

i. **Financial Statements**

Director Noble provided a summary of financials in the following amounts:

\$22.2 Million in Total Assets

\$7.4 Million in Cash on Hand

\$8.8 Million in Current Assets and Promissory Notes

\$4 Million in Fixed Assets

\$7.8 Million in Bonds Payable

\$7.4 Million in Equity

-\$150,000, net of income and expenses for the year-to-date.

ii. **Check Detail, Payroll and Vouchers Payable**

Director Noble noted for the Board that two separate vouchers payable were being presented to the Board for consideration. The first concerned leftover unpaid vouchers from the prior month, and these were presented for payment. **Upon motion by Director Schumer, seconded by Director**

**Perry, the Board approved paying such vouchers by vote of six in favor with Director Britton opposed.**

**b. District Manager Report**

Manager Pimental directed the Board's attention to the Manager's Report that had been provided in the Board packets. Comments were made as follows:

- Director True requested that more detail be shown in the HOA Committee Report, noting that the comment of “numerous issues too lengthy to list . . .” did not give the Board sufficient detail on such items. Manager Pimental stated that he would avoid using such language in future reports.
- Manager Pimental reported that 87 new trees were being planted in the upcoming days in accordance with the Board’s prior approval for planting to occur in 2008. He said that accomplishing the planting of all 87 trees would depend on weather.
- Manager Pimental also reported to the Board that the median project remained stalled because of the need for City of Denver approval of the plans and landscaping materials, noting that the City has had the District’s requests for several weeks. Manager Pimental did note for the Board that the contractor will work for the same price to complete the median project in the Spring of 2009 as was quoted for completing the job in late 2008. He stated that Spring would be the only time to complete the Project now due to weather considerations.

8. Discussion  
Items

**a. Consideration of 2009 Budget Resolution**

Legal counsel provided copies of Resolution No. 12-10-08, the District’s Resolution to adopt a budget for 2009, to set mill levies for 2009, and to appropriate sums of money for expenditure in 2009. In support of the Resolution, Director Noble explained the 11-page budget summary for all in attendance. He went through the summary fund by fund and noted specific line items that were to benefit funding requests of the Master HOA as well as items being funded, in part, for the District to perform its obligations under the Services Agreement with the Master HOA. Numerous questions were posed by those in attendance concerning the District’s youth program and community programs, the HOA activities expenses, legal costs of both organizations, and the salary and benefits of District employees.

The following additional questions were asked and responded to with regard to the budget summary:

- Mr. TJ Stone asked why the District staff had not accomplished scanning of archived HOA documents currently stored in offsite storage. Upon discussion, a misunderstanding was eliminated concerning the District staff’s access to such documents for scanning, and the HOA President acknowledged that the District staff could

begin taking documents at the rate of no more than one or two boxes at a time for scanning and return to the storage location. Manager Pimental noted that until this meeting, he had been instructed by Mr. Stone that the District staff could not access such documents for scanning.

- Director True asked specific questions about the District’s funding for “residential enhancements “proposed by the Master HOA.” Director Noble responded that of the original requests by the Master HOA, the District budget will fund approximately 33% of the amount requested by the HOA.
- Mr. Gravenson asked how the expense of HOA mailings, such as the survey discussed earlier in the meeting, were paid for. Director Noble responded that reimbursement of those costs will come from the District funds budgeted for HOA expenses during 2008.
- An unidentified member of the public asked how the cost of the community newsletter, approximately \$86,000, is funded by the District. Director Noble responded that the cost of publishing the community newsletter is included in the District’s budget. He also stated that there is a plan to make the newsletter available by email to reduce the expense of printing and providing the newsletter to those who voluntarily agree to accept email versions.
- Mr. Stone asked why the District had not considered reducing the debt service mill levy in 2009 in order to exactly match the 2009 debt service obligation, thereby creating additional operational mill levy available for District and/or Master HOA programs. Director Noble responded that the District is proposing to stockpile debt service tax monies for the purpose of defeasing bonded indebtedness earlier than the schedule originally set out by the bond documents. He noted that some defeasance can occur as early as 2010, and it is the Board’s intent to effect as much early repayment as seems prudent in the District’s discretion and as the bond contracts will allow.
- **Chairman Brown noted that the discussion of budget matters had occupied a portion of the meeting extending from 7:15 p.m. to 8:45 p.m. and called for a motion to approve the District’s Budget Resolution. Upon motion by Director George, seconded by Director Schumer, the Board voted six in favor of Budget Resolution 12-10-08(a) with Director True voting against.**

**b. Schedule of 2009 Regular Meeting dates**

Chairman Brown directed the Board’s attention to the schedule of meeting dates provided in the packets, noting that meetings in the month of October and December will be held on the second week of the month in order to accommodate statutory requirements for initially considering the budget and approving and certifying the mill levy for the following year. **Upon motion by Director Britton, seconded by Director George, the Board unanimously approved the schedule of meeting dates for 2009 as**

**presented.**

**c. Consideration of Proposed Bylaws**

Legal counsel directed the Board's attention to the drafts of bylaws prepared by his office and to which comments of the Board had been incorporated. Due to the length of the meeting, the Board determined to table discussion of the bylaws until its January 2009 meeting and determined to form a bylaw committee to coordinate review and revision of the draft. A bylaw committee was appointed with Directors Britton, Schumer, Chairman Brown and Ms. Elaine Smith as members of the committee. Directors were instructed to provide comments to the committee no later than January 12<sup>th</sup>, and the first meeting of the committee was scheduled for January 14, 2009, at which another draft will be developed for the Board's consideration at its regular meeting on January 21, 2009.

**d. Consideration of District Committees and Appointments**

Manager Pimental introduced this topic as agreed at a prior meeting, and asked for input from the Directors on their desired committee involvement in 2009. In the ensuing discussion, the District Board members stated an interest in re-establishing and appointing members to the following committees: Landscape Maintenance, Programs, GIS, HOA Matters, Community Newsletter, Website, and Implementation. By consensus, the Board suggested committee meetings be set for regular times each month, and Manager Pimental stated he would establish times and dates for such meetings in the January calendar and thereafter to the extent possible.

**e. Joint Meeting of the Master HOA and District Boards**

Chairman Brown summarized her attempts, and the District Board's attempts, to convene a joint meeting of the Master HOA and District Boards for discussion of the dispute between the organizations. She described her November invitation and the limited response to it. The Board generally discussed its desire to continue to attempt to have a joint Board meeting on a date that is convenient for all members of both Boards, and with a mediator present to facilitate the discussion. Mr. John Smith stated that he could provide the name of an experienced mediator, and that he would provide such to Chairman Brown. Chairman Brown stated she would consult other sources and attempt to find others for consideration as well. The Board expressed its desire that Chairman Brown and Mr. Stone mutually agree upon a facilitator for such discussions.

**f. Website Project**

No report was given. Manager Pimental suggested that the Board discuss and consider renewing or terminating the contract of Mr. Gary Haley, the

current website coordinator.

**g. Far Northeast Neighbors Membership**

The Board discussed Mr. John Smith's request that the District join as a member his neighborhood group known as the Far Northeast Neighbors. Mr. Ela cautioned that it may not be appropriate for the District to expend District tax funds for this type of purpose because it may not fit under the District's specific powers. Mr. Smith confirmed that the Far Northeast Neighbors is a non-profit 501(c) organization. The Board discussed and generally noted that neighborhood groups in the City of Denver such as the Far Northeast Neighborhood are given a great deal of notice and information on the activities of City government and are often provided the ability to comment on proposed City activities.

**h. Formation of Implementation Committee**

Chairman Brown discussed her vision of establishing a new District committee to focus on short and long-term planning for the District and the community as a whole. She mentioned the need to continually review and revise the mission of the District and the two-year hiatus on construction of the community center, during which time the Board needs to continue to evaluate the need and uses for such a facility. She welcomed any and all District Board members, HOA Board members, and community members to volunteer for the committee.

9. Executive Session

**Upon motion by Director Noble, seconded by Director Perry, the Board voted unanimously to enter Executive Session at 9:42 p.m. to hold conference with legal counsel concerning specific legal questions relating to the ongoing dispute with the Master HOA, to discuss matters related to purchasing real property, and to determine positions relative to matters subject to negotiations as allowed under Section 24-6-402(4)(a), (b) and (e), C.R.S.**

The Board reconvened its regular meeting from Executive Session at 11:18 p.m.

10. Other Matters

The Board further discussed the counteroffer made by Vastco concerning its claims for additional fees under the District's contract with Vastco, and determined to provide the District's counteroffer in the amount of \$1,550 payment in final accord and satisfaction of any further claim by Vastco. **By consensus the Board instructed Mr. Ela to notify District special counsel, Mr. Ben Tracy instructing him to work with Manager Pimental for developing the appropriate letter and release language to effect final settlement with Vastco.**

The Board further discussed its consideration of purchasing property as had been discussed in Executive Session, and directed legal counsel to prepare a

purchase contract to provide to the seller containing terms as discussed in Executive Session. **Upon motion by Director Schumer, seconded by Director Perry, the Board voted in favor of submitting a purchase contract to the seller of the specific property discussed in Executive Session by a vote of five in favor and none opposed, Director True had left the meeting at approximately 10:05 p.m., during Executive Session, and noting that Director Noble had left the meeting at 11:20 p.m.**

11. Adjournment      **There being no further matters to discuss, upon motion duly made and seconded the meeting was adjourned at 11:45 P.M.**

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting and was approved by the Board of Directors of the District on 21<sup>st</sup> day of January, 2009.

Respectfully submitted,

/s/ Mary Schumer  
Mary Schumer, Secretary